

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	File Nos.	EB-01-IH-0339
	)		EB-01-IH-0453
	)	NAL/Acct. No.	200132080059
	)	FRN Nos.	0004-3051-24
SBC Communications, Inc.	)		0004-3335-71
	)		0005-1937-01

**ORDER**

**Adopted: May 22, 2002**

**Released: May 28, 2002**

By the Commission:

1. The Commission has been conducting two investigations into potential violations by SBC Communications, Inc. (“SBC”) of sections 251 and 271 of the Communications Act of 1934, as amended (“the Act”),<sup>1</sup> sections 1.17 and 1.65 of the Commission’s Rules,<sup>2</sup> and the requirements of the *SBC/SNET Consent Decree*.<sup>3</sup> These investigations focused on competitors’ access to SBC’s operations support systems (“OSS”) and information SBC provided to the Commission as part of its section 271 applications.<sup>4</sup> The Commission and SBC have negotiated the terms of a Consent Decree that will terminate these investigations. A copy of the Consent Decree is attached hereto and is incorporated by reference.

2. Based on the record before us, and in the absence of material new evidence relating to this matter, we conclude that there are no substantial and material questions of fact as to whether SBC possesses the basic qualifications, including its character qualifications, to hold or obtain any FCC licenses or authorizations.

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<sup>1</sup> 47 U.S.C. §§ 251, 271.

<sup>2</sup> 47 C.F.R. §§ 1.17, 1.65.

<sup>3</sup> *See SBC Communications, Inc.*, Order, 14 FCC Rcd 12741 (1999) (“*SBC/SNET Consent Decree*”).

<sup>4</sup> *See* Letter from David H. Solomon, Chief, Enforcement Bureau, Federal Communications Commission to Sandra L. Wagner, Vice President-Federal Regulatory, SBC Telecommunications, Inc. (May 4, 2001), and Letter from David H. Solomon, Chief, Enforcement Bureau to Sandra L. Wagner, Vice President-Federal Regulatory, SBC Telecommunications, Inc. (July 26, 2001). *See also SBC Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 16 FCC Rcd 19091 (2001).

3. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 503(b), that the Consent Decree, incorporated by reference in and attached to this order, is hereby ADOPTED.

5. IT IS FURTHER ORDERED that the Secretary SHALL SIGN the Consent Decree on behalf of the Commission.

6. IT IS FURTHER ORDERED that the above captioned investigations ARE TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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**CONSENT DECREE**

**I. INTRODUCTION**

1. The Federal Communications Commission (the “Commission” or the “FCC”) and SBC Telecommunications, Inc.,<sup>1</sup> (“SBC” or the “Company”) hereby enter into this Consent Decree for the purpose of terminating two investigations by the Commission into whether SBC may have violated sections 251 and 271 of the Communications Act of 1934, as amended (“the Act”),<sup>2</sup> sections 1.17 and 1.65 of the Commission’s Rules,<sup>3</sup> and the terms of the June 1999 *SBC/SNET Consent Decree*.<sup>4</sup> The investigations focused on the circumstances surrounding SBC’s submission to the Commission of inaccurate factual information in section 271 application affidavits. Specifically, these affidavits contained inaccurate information related to competing carriers’ allegations concerning purported problems obtaining access to loop qualification information in Texas, Kansas, Oklahoma, Arkansas, and Missouri, and electronic access to SBC’s Loop Maintenance Operations System (“LMOS”).<sup>5</sup>

<sup>1</sup> Although the Commission’s decisions granting SBC’s section 271 applications refer to the SBC affiliates that applied for section 271 approval as “SWBT” (the acronym for the SBC affiliate Southwestern Bell Telephone, L.P.), throughout this Consent Decree we will refer to SBC and its affiliates as “SBC.”

<sup>2</sup> 47 U.S.C. §§ 251 and 271.

<sup>3</sup> 47 C.F.R. §§ 1.17 and 1.65.

<sup>4</sup> See *SBC Communications, Inc.*, Order, 14 FCC Rcd 12741 (1999) (“*SBC/SNET Consent Decree*”). The *SBC/SNET Consent Decree* resolved an investigation into potential violations by SBC of sections 271 and 272 of the Communications Act and section 1.65 of the Commission’s rules, and potentially inaccurate statements made by SBC employees, all in relation to SBC’s application for transfer of various authorizations from Southern New England Telephone Company (“SNET”) to SBC. The *SBC/SNET Consent Decree* required SBC to train those employees who have regular contact with the Commission as part of their assigned duties in Commission rules governing contacts with and representations to the Commission.

<sup>5</sup> See Letter from David H. Solomon, Chief, Enforcement Bureau, Federal Communications Commission, to Sandra L. Wagner, Vice President-Federal Regulatory, SBC Telecommunications, Inc. (May 4, 2001) (“Loop Qualification Letter of Inquiry”), and Letter from David H. Solomon, Chief, Enforcement Bureau, to Sandra L. Wagner, Vice President-Federal Regulatory, SBC Telecommunications, Inc. (July 26, 2001) (“LMOS Letter of Inquiry”).

## II. BACKGROUND

2. Section 271(d)(1) of the Act requires a Bell Operating Company (“BOC”) to file an application with the Commission in order to receive authorization to provide in-region interLATA service.<sup>6</sup> Applicants must comply with the requirements of section 271 prior to receiving such approval. Thus, *inter alia*, an applicant must provide requesting carriers nondiscriminatory access to its operations support systems (“OSS”)<sup>7</sup> in order to comply with section 271(c)(2)(B)(ii) of the Act and obtain section 271 authorization.<sup>8</sup> Once the applicant has received section 271 authority, it must continue to meet the conditions of Commission authorization, including providing nondiscriminatory access to its OSS.<sup>9</sup> In this context, the Commission, in addition to its general enforcement authority,<sup>10</sup> has authority to suspend or revoke its approval of a section 271 application should the BOC at any time cease to meet a condition of the approval.<sup>11</sup>

3. Applicants seeking authority to provide in-region interLATA service submit affidavits and other evidence as part of their applications to demonstrate that they meet the requirements of section 271. Section 1.17 of the Commission’s Rules states that no applicant shall make any misrepresentation or willful material omission in any application submitted to the Commission.<sup>12</sup> Section 1.65 of the Commission’s Rules requires applicants to furnish “additional or corrected information” whenever information furnished in a pending application is no longer substantially accurate and complete in all significant respects or when there has been a substantial change as to any other matter that may be of decisional significance in a Commission proceeding involving that application.<sup>13</sup> Applicants that violate these rules are subject to the

<sup>6</sup> 47 U.S.C. § 271(d)(1). A LATA, or local access transport area, defines the contiguous geographic area within which a Bell Operating Company may provide service. See 47 U.S.C. § 153(25).

<sup>7</sup> OSS includes the variety of systems, databases, and personnel used by an incumbent LEC to provide service to its customers. See *Joint Application by SBC Communications, Inc., Southwestern Bell Tel. Co., and Southwestern Bell Commun. Serv., Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6284, para. 104 (2001), *aff’d and remanded in part by Sprint Communications Co. L.P. et al. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001).

<sup>8</sup> See 47 U.S.C. § 271(c)(2)(B)(ii). See also *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, Memorandum Opinion and Order, 15 FCC Rcd 3953, at 3971, para. 44 (1999), *aff’d by AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000); see also 47 U.S.C. § 271(c)(2)(B)(ii).

<sup>9</sup> See § 271(d)(6)(A)(iii). “[T]he grant of [an] application merely closes a chapter. It does not end the story.” *Application by SBC Communications, Inc., Southwestern Bell Tel. Co., and Southwestern Bell Commun. Serv., Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18359, para. 7 (2000).

<sup>10</sup> See generally, 47 U.S.C. § 503(b).

<sup>11</sup> See, e.g., 47 U.S.C. § 271(d)(6)(A)(ii).

<sup>12</sup> In relevant part, section 1.17, 47 C.F.R. § 1.17, states: “. . . No applicant, permittee or licensee shall in any response to Commission correspondence or inquiry or in any application, pleading, report or any other written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission.”

<sup>13</sup> In relevant part, section 1.65, 47 C.F.R. § 1.65, states:

Commission's enforcement authority.<sup>14</sup>

4. Pursuant to these rules, the Enforcement Bureau conducted two investigations in relation to SBC's Texas, Kansas/Oklahoma and Missouri section 271 applications. The first investigation arose from SBC's representations in the Kansas/Oklahoma proceeding concerning competing carriers' ability to access loop qualification information from SBC, which raised questions about potential violations of sections 251 and 271 of the Act. It also involved the timeliness of disclosures the company made to the Commission subsequent to the Commission's approval of the section 271 application, SBC's implementation of and compliance with the 1999 *SBC/SNET Consent Decree*, and the veracity of an affidavit by an SBC employee that SBC submitted in connection with the investigation.<sup>15</sup> Following the Enforcement Bureau's investigation of these issues, the Commission issued a Notice of Apparent Liability and Order on October 16, 2001, in which the Commission proposed a forfeiture of \$2.52 million for SBC's apparent violation of sections 1.17 and 1.65 of the Commission's Rules and of the training requirements of the 1999 *SBC/SNET Consent Decree*.<sup>16</sup> Additionally, the Commission required SBC to report to the Commission, through an independent audit, on the success of its efforts to ensure compliance with section 1.65 of the Commission's Rules and the terms of the *SBC/SNET Consent Decree*. SBC submitted its response to the NAL on November 21, 2001.<sup>17</sup>

5. The Enforcement Bureau's second investigation arose from a competing carrier's complaint about difficulties obtaining electronic access to SBC's LMOS system.<sup>18</sup> This

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Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate. Whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate, which shall be served upon parties of record in accordance with § 1.47. . . For the purposes of this section, an application is "pending" before the Commission from the time it is accepted for filing by the Commission until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.

<sup>14</sup> See, e.g., 47 U.S.C. § 503(b).

<sup>15</sup> See Loop Qualification Letter of Inquiry.

<sup>16</sup> See *SBC Communications Inc.*, Notice of Apparent Liability for Forfeiture and Order, 16 FCC Rcd 19091 (2001) ("NAL"). The Commission premised SBC's apparent section 1.17 violation on statements made in an affidavit signed by an SBC employee and submitted by SBC with its April 6, 2001 report to the Enforcement Bureau.

<sup>17</sup> See Response of SBC Communications Inc. to Notice of Apparent Liability for Forfeiture and Order, EB-01-IH-0339 (filed Nov. 21, 2001).

<sup>18</sup> See Comments of AT&T Corp. in Opposition to SBC Communications Inc.'s Section 271 Application for Missouri, CC Docket No. 01-88, (filed Apr. 24, 2001) and Letter from Richard E. Young, Sidley Austin Brown & Wood to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 01-88, at 7 (filed May 24, 2001).

investigation, as did the first, concerned SBC's compliance with sections 251 and 271 of the Act, the veracity of affidavits SBC submitted in connection with section 271 applications, the timeliness of disclosures the company made in relation to the Commission's approval of those applications, and questions about SBC's implementation of and compliance with the *SBC/SNET Consent Decree*.<sup>19</sup>

### III. DEFINITIONS

6. For purposes of this Consent Decree and the attached Compliance Plan, the following definitions shall apply.

- (a) "FCC" or the "Commission" means the Federal Communications Commission and all of its bureaus and offices.
- (b) "SBC" or the "Company" means SBC Communications Inc. and its wholly owned subsidiaries, including, but not limited to the following: Southwestern Bell Telephone, L.P., Pacific Bell, Nevada Bell, Illinois Bell, Indiana Bell, Michigan Bell, Ohio Bell, Wisconsin Bell, SNET, Southwestern Bell Communications Services, Inc., SBC Advanced Solutions, Inc. (ASI), Ameritech Advanced Data Services (AADS), SBC-MSI and SBC long distance subsidiaries. It will not apply to Cingular, or any other company that is not wholly owned and controlled by SBC, including SBC's foreign affiliates.
- (c) "In-region state" is defined at 47 U.S.C. § 271(i)(1), and for SBC includes Texas, Kansas, Oklahoma, Missouri, Arkansas, Illinois, Indiana, Michigan, Ohio, Wisconsin, Nevada, and California.
- (d) "Parties" means SBC and the FCC.
- (e) "SBC FCC Representatives" means SBC employees authorized by SBC to represent SBC in "Contacts with the Commission," as that term is defined in subparagraph (h) of this paragraph. SBC will provide the Chief of the Enforcement Bureau a list of SBC employees so authorized within 10 calendar days after the Commission Order adopting this Consent Decree becomes final, and will provide the Chief of the Enforcement Bureau an updated list on a monthly basis. This updated list will identify any SBC employees who have been added or removed from the previously submitted list. This list will include: (1) the Chairman and CEO of SBC and the SBC Officers who report directly to the Chairman and CEO; (2) staff assigned to the Federal Regulatory Group located in Washington, D.C. and the SBC Officer to whom this Group reports; (3) attorneys assigned to the FCC Legal Group located in Washington, D.C. and the SBC Legal Officer to whom this Group reports; (4) attorneys assigned to the SBC 271 Legal Team and the SBC Legal Officer to whom this Team reports; (5) all other SBC employees who have been authorized to make

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<sup>19</sup> See LMOS Letter of Inquiry.

“contacts” with the FCC by one of the SBC FCC Representatives listed above; and  
(6) SBC employees who sign and submit sworn affidavits or statements on behalf of SBC to the FCC after the effective date of this Consent Decree.

- (f) “SBC Compliance Guidelines” means the Compliance Primer used by SBC to provide training to SBC FCC Representatives on the requirements of the *SBC/SNET Consent Decree*, this Consent Decree, sections 1.17 and 1.65 of the Commission’s Rules, and any other FCC rule pertaining to contacts with and representations to the FCC.
- (g) “Compliance Training” means training SBC provides to SBC FCC Representatives on the requirements of the *SBC/SNET Consent Decree*, this Consent Decree, sections 1.17 and 1.65 of the Commission’s Rules, and any other FCC rules pertaining to contacts with and representations to the FCC.
- (h) “Contacts with the Commission” is defined as an in-person meeting with an FCC Commissioner or FCC staff, or participation in a telephone or conference call with an FCC Commissioner or FCC staff that has been scheduled, initiated, coordinated or authorized by an SBC FCC Representative for purposes of discussing substantive matters concerning a pending matter relating to SBC, or the submission of a written statement, including an affidavit or sworn statement, to an FCC Commissioner, FCC staff, or the FCC.
- (i) “Order” or “Adopting Order” means an order of the FCC adopting this Consent Decree without change, addition, or modification.
- (j) “Final Order” means an order that is no longer subject to administrative or judicial reconsideration, review, appeal, or stay.
- (k) “OSS” or “operations support systems” means systems used by SBC to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing as defined in the *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order, CC Docket No. 96-98, 15 FCC Rcd 3696 (1999).
- (l) “*SBC/SNET Consent Decree*” refers to the agreement between the Commission and SBC, including the Compliance Plan requirements contained therein, resolving the informal investigation by the Commission into potential violations by SBC of sections 271 and 272 of the Communications Act and section 1.65 of the Commission’s rules, and potentially inaccurate statements made by SBC employees, all in relation to SBC’s application for transfer of various authorizations from Southern New England Telephone Company to SBC.<sup>20</sup>

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*See SBC/SNET Consent Decree*, 14 FCC Rcd 12741 (1999).

- (m) “Investigations” or “investigation” means, collectively or singularly, the investigations commenced by letters of inquiry the Enforcement Bureau issued to SBC on May 4, 2001 concerning loop qualification and/or on July 26, 2001 concerning LMOS, and information learned from interviews, documents, informal complaints, *ex partes*, or other information received by the Commission related to the issues addressed therein (excluding information received in, or in connection with, any formal complaint proceeding) prior to the date of the Adoption Order.
- (n) “Effective Date” means the date on which the Commission adopts the Adopting Order.

#### IV. AGREEMENT

7. SBC and the Commission agree that this Consent Decree does not constitute either an adjudication of the merits, or any factual or legal finding or determination of noncompliance by SBC with the requirements of the Act, as amended, with the Commission’s Rules, or with the requirements of the *SBC/SNET Consent Decree*. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, the Company does not admit any noncompliance, violation, or liability associated with or arising from any alleged actions or failures, including any problems or failures described in the letters of inquiry or the NAL, or in any informal complaints, *ex partes*, or other information the Commission received on or before the Effective Date of this Consent Decree.

8. In express reliance on the covenants and representations contained herein, the Commission agrees to terminate the Investigations and cancel the NAL, except for the requirements in paragraphs 64, 89, 97 and 98 regarding the independent audit.<sup>21</sup>

9. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between SBC and the Commission of the Investigations. In consideration for the termination of these Investigations in accordance with the terms of this Consent Decree, SBC agrees to the terms, conditions, and procedures contained herein and in the accompanying and incorporated Compliance Plan. To ensure SBC’s future compliance with the Act and our rules, SBC agrees, effective thirty days after the release of the Order, to implement the specific measures contained in the attached Compliance Plan. SBC also agrees that the definitions of “SBC FCC Representatives” and “Contacts with the Commission” contained in paragraph 6 of this Consent Decree shall apply to the terms “SBC’s FCC representatives” and “FCC Contacts” in the SBC Compliance Plan Regarding FCC Rules and Regulations attached to the *SBC/SNET Consent Decree*.

10. SBC has performed an internal investigation concerning an SBC employee’s representations to the Enforcement Bureau related to its loop qualification investigation and, because of the unique circumstances of these representations (including the fact that there were

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<sup>21</sup> See NAL, 16 FCC Rcd at 19114, 19125, 19127-28.



no witnesses to the specific facts upon which the representations in question are based), SBC has no basis upon which to determine whether each of the facts contained in those representations are or are not accurate. SBC confirms that it is SBC corporate policy that if, after an internal investigation and based upon a preponderance of the evidence, SBC concludes that one of its employees has intentionally made any misrepresentation, or engaged in any willful material omission in any submission to the Commission, either orally or in writing, SBC will take appropriate disciplinary action, up to and including dismissal.

11. SBC will make a voluntary contribution to the United States Treasury in the amount of \$3.6 million dollars (\$3,600,000) within 10 calendar days after the Commission Order adopting this Consent Decree becomes final. SBC must make this payment by check, wire transfer or money order drawn to the order of the Federal Communications Commission, and the check, wire transfer or money order should refer to “NAL Acct. No. 200132080059” and “FRN Nos. 0004-3051-24, 0004-3335-71, and 0005-1937-01.” If SBC makes this payment by check or money order, it must mail the check or money order to: Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. If SBC makes this payment by wire transfer, it must wire such payment in accordance with Commission procedures for wire transfers.

12. The Commission agrees that, in the absence of material new evidence related to these matters, it will not use the facts developed in the Investigations through the date of this Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceedings, formal or informal, or to take any actions on its own motion against the Company concerning the matters that were the subject of the Investigations. The Commission also agrees that, in the absence of material new evidence related to these matters, it will not use the facts the Bureau developed in the Investigations to institute on its own motion any proceeding, formal or informal, or take any action against SBC with respect to its basic qualifications, including its character qualifications, to be a Commission licensee. Consistent with the foregoing, nothing in this Consent Decree limits the Commission’s authority to consider and adjudicate any complaint that may be filed pursuant to sections 208 or 271 of the Communications Act, as amended,<sup>22</sup> and to take any action in response to such complaint.

13. The Company waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Order adopts the Consent Decree without change, addition, or modification.

14. The Company’s decision to enter into this Consent Decree is expressly contingent upon issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, or modification.

15. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

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<sup>22</sup> 47 U.S.C. §§ 208 and 271.

16. If the Commission, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Adopting Order, neither SBC nor the Commission will contest the validity of the Consent Decree or Adopting Order, and the Company will waive any statutory right to a trial *de novo*.

17. Any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

18. The Parties agree that the terms of the accompanying Compliance Plan are incorporated into this Consent Decree. The parties further agree that Part II of the accompanying Compliance Plan will remain in effect only until SBC has received final authorization for all of its section 271 applications for its twelve in-region states. For the purposes of this Consent Decree, final authorization will mean once a Commission grant of an application is no longer subject to reconsideration by the Commission or to review by any court.

19. The Parties agree that Part I of the accompanying Compliance Plan, and the *SBC/SNET Consent Decree* shall remain in effect until May 1, 2007, unless the Commission votes to extend either of them.

20. This Consent Decree shall terminate at such time as Parts I and II of the accompanying Compliance Plan have both terminated as set forth in paragraphs 18 and 19, above.

21. The Parties also agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which SBC does not consent) that provision will be superseded by such Commission rule or order.

22. This Consent Decree may be signed in counterparts.

FEDERAL COMMUNICATIONS COMMISSION

By: \_\_\_\_\_  
Marlene H. Dortch  
Secretary

SBC Telecommunications, Inc.

By: \_\_\_\_\_  
Priscilla Hill-Ardoin  
Senior Vice-President-FCC

## COMPLIANCE PLAN<sup>1</sup>

### I. Contacts with and representations to the FCC.

#### A. SBC FCC Representatives:

1. SBC will train and provide materials to its SBC FCC Representatives concerning the requirements of this Consent Decree, the *SBC/SNET Consent Decree*, and certain Commission rules. Specifically, SBC will:

- a) train its SBC FCC Representatives in SBC's obligations regarding contacts with and representations to the FCC under the terms of the *SBC/SNET Consent Decree*, this Consent Decree, and sections 1.17 and 1.65 of the Commission's Rules; and
- b) provide each of its FCC Representatives with the SBC Compliance Guidelines setting forth SBC's obligations regarding contacts with and representations to the FCC under the terms of the *SBC/SNET Consent Decree*, this Consent Decree, and sections 1.17 and 1.65 of the Commission's Rules.

2. SBC will provide the materials and training described in I.A.1., above:

- a) to all SBC FCC Representatives each year;
- b) except in the case of an employee who signs and submits a section 271 affidavit on behalf of SBC, to each employee SBC designates as an SBC FCC Representative by including such employee on SBC's list of authorized SBC FCC Representatives before such employee participates in a contact with the FCC; and
- c) to each SBC employee who signs and submits an FCC affidavit on behalf of SBC no later than five business days after the date on which such employee is assigned responsibility to prepare his or her initial affidavit, or before the date the employee signs such affidavit, whichever occurs first.

3. SBC will maintain written certification from each employee in I.A.2. certifying that he or she has received the training and understands the obligations regarding contacts with and representations to the FCC under the terms of the *SBC/SNET Consent Decree*, this Consent Decree, and section 1.17 and 1.65 of the

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This Compliance Plan incorporates Section III: Definitions from the Consent Decree.

Commission's Rules, and reviewed and understands the SBC Compliance Guidelines.

B. Contacts with the FCC: SBC will take reasonable steps to ensure that only an SBC FCC Representative schedules or participates in a Contact with the Commission. In particular, at least once per calendar year, SBC will notify its management employees (*i.e.*, non-bargained for employees) via e-mail that they may not contact the FCC, an FCC Commissioner, or FCC staff for purposes of discussing substantive matters concerning a pending matter relating to SBC, unless they are authorized by SBC to engage in such contact and have received Compliance Training, as defined in paragraph 6(g) of the Consent Decree.

C. Disciplinary Action: If, after an internal investigation and based upon a preponderance of the evidence, SBC concludes that one of its employees has intentionally made any misrepresentation, or engaged in any willful material omission in any submission to the Commission, either orally or in writing, SBC will take appropriate disciplinary action, up to and including dismissal.

D. Compliance Tracking: SBC will assign a manager in its Federal Regulatory Group the responsibility for tracking SBC's compliance with the foregoing requirements, including the maintenance of records documenting such compliance. SBC will make copies of relevant records available to the FCC, upon written request, within ten days of such request, unless negotiated otherwise.

## II. Section 271 Applications

A. Affiant Training: SBC will inform each affiant who files an affidavit with the FCC in support of any section 271 application of SBC's obligations under section 1.17 and 1.65 of the Commission's Rules no later than five business days after the affiant is assigned the responsibility to prepare his or her initial section 271 affidavit, or before the date the employee signs such affidavit, whichever occurs first.

B. Affidavit Verification: SBC will require that, prior to signing an affidavit that is filed with the Commission in support of a section 271 application, each affiant verify to a reasonable certainty, in writing, that the factual assertions included in the affidavit are accurate and complete in all significant respects. Such verification must be based on either the affiant's own personal knowledge, or the personal knowledge of one or more SBC employees whom the affiant reasonably believes are knowledgeable and reliable. If an SBC employee verifies factual information in an affidavit filed with the Commission in support of a section 271 application based on personal knowledge, then that SBC employee will identify the factual assertions about which he or she has personal knowledge and verify to a reasonable certainty, in writing, that the factual assertion is accurate and complete in all significant respects.

C. SBC Employees Verifying Factual Information Filed with the Commission: SBC

will provide all employees verifying factual information in an affidavit that is filed with the Commission in support of a section 271 application with written instructions summarizing that employee's responsibility under sections 1.17 and 1.65 of the Commission's Rules.

D. List of Employees Verifying Information in Affidavits: SBC will maintain a list of those employees who, after the effective date of this Consent Decree, verify the factual assertions contained in an affidavit, or any portion thereof, filed with the FCC in support of a section 271 application. The list shall specify which affidavit(s) the employee verified and, if an employee verified only part of an affidavit, which paragraphs of the affidavit the employee verified.

E. Affidavit Statement: SBC will require that affidavits signed by an SBC employee that are filed with the FCC in support of a section 271 application include a statement that the affiant has:

1. received the training SBC is obligated to provide to all SBC FCC Representatives;
2. reviewed and understands the SBC Compliance Guidelines;
3. signed an acknowledgement of his or her training and review and understanding of the Guidelines; and
4. complied with the requirements of the SBC Compliance Guidelines.

F. Compliance Tracking: The Manager referenced in Section I will have responsibility for tracking SBC's compliance with the foregoing requirements, including maintaining records documenting such requirements. SBC will make copies of the relevant records available to the FCC, upon written request, within ten days of such request, unless negotiated otherwise.

### **III. Independent Audit**

A. An independent auditor shall perform a compliance attestation of the requirements of this Compliance Plan for the period June 1, 2002 through May 31, 2003 in accordance with the standards promulgated by the American Institute of Certified Public Accountants ("AICPA"). The independent auditor shall file its audit report with the Chief, Enforcement Bureau no later than 90 days after the end of the audit period. In particular, the independent auditor shall perform an examination engagement resulting in a positive opinion (with all exceptions noted). The following terms and conditions shall apply to the conduct of the audit:

1. The independent auditor shall be Ernst & Young, unless otherwise agreed by SBC and the Enforcement Bureau;

2. The independent auditor shall submit its preliminary audit program to the Enforcement Bureau and SBC for review and comment before starting any work. The final audit program shall be determined by the independent auditor based upon AICPA standards, taking into consideration the comments of the Enforcement Bureau and SBC; and
3. The independent auditor shall make available to the Enforcement Bureau upon request its working papers and supporting documentation for a period of two years after completing the audit.